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No. 86-104

In The

Supreme Court of the United States

October Term, 1985

THE BOARD OF AIRPORT COMMISSIONERS OF THE CITY OF LOS ANGELES, *ET AL.*,

Petitioners,

vs.

JEWS FOR JESUS, INC.
AND ALAN HOWARD SNYDER,
a/k/a AVI SNYDER,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF IN OPPOSITION FOR THE RESPONDENTS

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QUESTIONS PRESENTED

I. Whether the Central Terminal Area of the Los Angeles International Airport, which Petitioners have opened to unrestricted public access, constitutes a traditional public forum such that a resolution prohibiting all First Amendment activity must be narrowly drawn to accomplish a compelling governmental interest?

II. Whether Petitioners have opened the Central Terminal Area of the Los Angeles International Airport for use by the public as a place for expressive activities by consenting to the exercise of certain First Amendment activity within it?

III. If the Central Terminal Area of the Los Angeles International Airport is not a public forum, whether a resolution absolutely prohibiting First Amendment activities is reasonable when certain expressive activity is permitted and when during the past ten years the walkways of the interior terminal have been utilized by various groups to distribute literature and communicate ideas?

TABLE OF CONTENTS

	Page
Questions Presented	i
Table of Authorities	iii
Statement of the Case	1
Reasons for Not Granting the Writ:	
1. The United States Court of Appeals for the Ninth Circuit correctly held that the Central Terminal Area of the Los Angeles International Airport, which has been opened to unrestricted public access, is a traditional public forum.	6
2. Petitioners have opened the Central Terminal Area of the Los Angeles International Airport to the exercise of expressive activities.	13
3. Petitioners have failed to show that an absolute prohibition of First Amendment activities in the Central Terminal Area of the Los Angeles International Airport is reasonable.	14
Conclusion	19

TABLE OF AUTHORITIES

Page

CASES CITED

Cantwell v. Connecticut, 310 U.S. 296 (1940) 17

Chicago Area Military Project v. City of Chicago, 508 F.2d 921 (7th Cir. 1975), *cert. denied*, 421 U.S. 992 (1975) 6, 9

Cornelius v. NAACP Legal Defense & Educational Fund, Inc., 105 S.Ct. 3439 (1985) 10, 11, 13, 15

Fernandez v. Limmer, 663 F.2d 619 (5th Cir. 1981), *cert. dismissed*, 458 U.S. 1124 (1982) 6, 8

Gannett Satellite Information Network v. Metropolitan Transportation Authority, 745 F.2d 767 (2d Cir. 1984) 7

Hague v. CIO, 307 U.S. 496 (1939) 9

Heffron v. International Society for Krishna Consciousness, Inc., 452 U.S. 640 (1981) 13, 15, 17, 18

International Society for Krishna Consciousness, Inc. v. Collins, 452 F.Supp. 1007 (S.D. Tex. 1977), *vacated*, 609 F.2d 151 (5th Cir. 1980) 7

International Society for Krishna Consciousness of Atlanta v. Eaves, 601 F.2d 809 (5th Cir. 1979) 6, 9

International Society for Krishna Consciousness, Inc. v. Engelhardt, 425 F.Supp. 176 (W.D. Mo. 1977) 6

International Society for Krishna Consciousness, Inc. v. Lentini, 461 F.Supp. 49 (E.D. La. 1978) 6, 7

International Society for Krishna Consciousness, Inc. v. Rochford, 585 F.2d 263 (7th Cir. 1978) 6, 9

International Society for Krishna Consciousness, Inc. v. Wolke, 453 F.Supp. 869 (E.D. Wis. 1978) 6

Jews for Jesus, Inc. v. Board of Airport Commissioners, 785 F.2d 791 (9th Cir. 1986) 7, 10, 11

Kuszynski v. City of Oakland, 479 F.2d 1130 (9th Cir. 1973) 6, 9

TABLE OF AUTHORITIES—Continued

Page

Penthouse International v. Koch, 599 F.Supp. 1338 (S.D.N.Y. 1984) 7

Perry Education Association v. Perry Local Educators' Association, 460 U.S. 37 (1983) 11, 13, 14

Members of City Council v. Taxpayers for Vincent, 466 U.S. 789 (1984) 15, 17, 18

Moskowitz v. Cullman, 432 F.Supp. 1263 (D.N.J. 1977) 7

Rosen v. Port of Portland, 641 F.2d 1243 (9th Cir. 1981) 6

Schneider v. State, 308 U.S. 147 (1939) 17

United States v. Grace, 461 U.S. 171 (1983) 12

United States Southwest Africa/Nambia Trade & Cultural Council v. United States, 708 F.2d 760 (D.C. Cir. 1983) 6, 7

Widmar v. Vincent, 454 U.S. 263 (1981) 13, 17

Wolin v. Port of New York Authority, 392 F.2d 83 (2d Cir. 1968) 7

Wright v. Chief of Transit Police, 558 F.2d 67 (2d Cir. 1977) 7

STATUTES AND ORDINANCES CITED:

Article XXIV, Section 238.8 of the Los Angeles City Charter 2, 3, 11

49 U.S.C. § 1359 8

45 Fed. Reg. 35 (1980) 8

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BRIEF IN OPPOSITION FOR THE RESPONDENTS

PART ONE

STATEMENT OF THE CASE

Respondents are Jews for Jesus, Inc.[1], a non-profit religious corporation, and Alan Howard Snyder, a minis-

[1] Jews for Jesus, Inc., is a California non-profit religious corporation with no parent companies and no subsidiaries. Jewish Christian Ministry of Reconciliation and A Messianic Jewish Perspective are affiliates of Jews for Jesus, Inc.

ter of the Gospel employed with Jews for Jesus, Inc. The Petitioners are the City of Los Angeles and the Board of Airport Commissioners of the City of Los Angeles ("Board"), as individuals and as operators of Los Angeles International Airport ("LAX"). Pursuant to City of Los Angeles Charter Article XXIV, Section 238.4, the Board manages and controls all airports owned by the City of Los Angeles including LAX.

On July 13, 1983, the Petitioners enacted Resolution No. 13787. This resolution on its face bans without restriction all "First Amendment activities" from the interior terminal areas at LAX which are otherwise open to the public, including the pedestrian walkways located within those terminals.

On July 6, 1984, Snyder was distributing free religious literature on a pedestrian walkway in the Central Terminal Area ("CTA") at LAX. In distributing the religious literature, Snyder was not blocking any entrances, exits, stairways, escalators, elevators, doors, or otherwise inhibiting the free flow of pedestrian traffic on the pedestrian walkway located inside the terminal. He was not touching, annoying, blocking, obstructing, or otherwise harassing any other person present in the immediate vicinity of his location on the pedestrian walkway. Nevertheless, he was approached by a Department of Airports peace officer. The officer showed Snyder a copy of the Resolution, told Snyder that he was violating it, and asked him to leave. The officer warned Snyder that if he refused to leave, the city would take legal action against him. Snyder stopped distributing the leaflets and immediately left the airport terminal as the officer had demanded.

On July 17, 1984, Jews for Jesus, Inc. filed suit in the United States District Court for the Central District of California seeking a declaration of its rights to distribute religious literature in public areas in the CTA. Jews for Jesus, Inc. challenged the constitutionality of the Resolution under both the United States and California Constitutions.

The matter came before the district court for trial on January 6, 1985. Counsel for all parties orally stipulated to the facts and the district court treated the trial briefs as cross-motions for summary judgment without objection from the parties. The district court ruled that the CTA is a traditional public forum and declared the total ban on First Amendment activities unconstitutional on its face.

The Petitioners appealed to the United States Court of Appeals for the Ninth Circuit, which held that the CTA at LAX is a traditional public forum and that governmental interests advanced by the Petitioners were not sufficiently compelling to justify the total exclusion of persons wishing to exercise free speech within the CTA.

Article XXIV, Section 238.8 of the Los Angeles City Charter provides in part:

> The Board shall likewise have power to enter into leases with any person, firm or corporation for purposes other than for the promotion and accommodation of air commerce and air navigation covering any portion of the airport property whenever the Board shall determine that the use of such portion of the airport property is not necessary for the promotion and accommodation of air commerce and air navigation or use incidental thereto.

The terminal facilities at LAX contain large areas open to the public, including the pedestrian walkways, ticketing and baggage claim areas, baggage lockers, check-in gates, loading gates, cocktail lounges, waiting areas, aircraft loading gates, restaurants, news stands, gift shops, barber shops, art displays, information displays, flight insurance counters, rent-a-car counters, hotel, motel, restaurant, and ground transportation advertising displays, rest areas, including chairs and benches, restrooms, automatic traveler's check and banking machines, and general waiting areas. The public is permitted unrestricted access to these portions of the airport terminal interiors.

LAX is the third busiest airport in the world. It handled more than 32 million passengers in 1982, more than 33 million passengers in 1983, and it was anticipated that it would handle more than 34 million passengers in 1984. It is estimated that at least an equal number of greeters enter the terminal area to pick up or drop off airline passengers.

During at least the past ten years, a variety of religious and political groups, including the Respondents, have ultilized the interior area of terminals at LAX, including the pedestrian walkways located within it, to distribute literature and communicate ideas.

The Petitioners have expressly allowed the exercise of commercial speech in the interior terminal areas, including areas directly attached to or in the vicinity of the pedestrian walkways located within it. Art work created by children and depicting airport scenes has been displayed in the terminal facilities with the Petitioners knowledge and permission. The Petitioners expressly per-

mitted a display entitled "Think Before You Buy," which contained specimens, pictures, and information pertaining to protected species, to be maintained inside terminal facilities. The Petitioners also license the operation of a Christian Science reading room, which is open to the public, inside terminal facilities. Petitioners do not prohibit persons wearing T-shirts or other articles of clothing imprinted with slogans, statements, or other forms of religious or political communication from walking in the interior terminal areas of LAX. During the 1984 summer Olympic Games in Los Angeles, free-standing "Olympic Family" information booths were set up within the terminal areas at LAX with Petitioners' express consent. A picture of the Mayor of the City of Los Angeles is displayed in each of the terminals at LAX on a sign that states "Mayor Tom Bradley Salutes the New LAX Gateway to the Olympics."

Recent expansion of the existing terminals and construction of new terminals has reduced the levels of pedestrian congestion inside the terminal complexes.

The express policy of Jews for Jesus, Inc., prohibits its members from either soliciting or accepting any money while distributing religious literature in the terminals at LAX. Jews for Jesus, Inc., also forbids its members, while engaged in the free distribution of religious literature, from harassing, interfering with, blocking, obstructing, physically touching or otherwise intentionally annoying any other person.

PART TWO

REASONS WHY THE PETITION SHOULD BE DENIED

1. The United States Court of Appeals for the Ninth Circuit correctly held that the Central Terminal Area of the Los Angeles International Airport, which has been opened to unrestricted public access, is a traditional public forum.

The United States Court of Appeals for the Ninth Circuit correctly concluded that the Central Terminal Area of the Los Angeles International Airport is a traditional public forum and that Petitioners had advanced no sufficiently compelling interests to justify the total prohibition of First Amendment activity. The Ninth Circuit's decision in this case is not in conflict with any decision of this Court or of any other court. Every court of appeals and district court which has been confronted with the question has held that an airport terminal is a public forum. *See United States Southwest Africa/Nambia Trade & Cultural Council v. United States*, 708 F.2d 760 (D.C. Cir. 1983); *Fernandes v. Limmer*, 663 F.2d 619 (5th Cir. 1981), *cert. dismissed*, 458 U.S. 1124 (1982); *Rosen v. Port of Portland*, 641 F.2d 1243 (9th Cir. 1981); *International Society for Krishna Conscioussness, Inc. v. Rochford*, 585 F.2d 263 (7th Cir. 1978); *Chicago Area Military Project v. City of Chicago*, 508 F.2d 921 (7th Cir. 1975), *cert. denied*, 421 U.S. 992 (1975); *International Society for Krishna Consciousness, Inc. v. Wolke*, 453 F.Supp. 869 (E.D. Wis. 1978); *International Society for Krishna Consciousness, Inc. v. Engelhardt*, 425 F.Supp. 176 (W.D. Mo. 1977); *see also International Society for Krishna Consciousness of Atlanta v. Eaves*, 601 F.2d 809 (5th Cir. 1979); *Kuszynski v. City of Oakland*, 479 F.2d 1130 (9th Cir. 1973); *International So-*

ciety for Krishna Consciousness, Inc. v. Lentini, 461 F.Supp. 49 (E.D. La. 1978); *International Society for Krishna Consciousness, Inc. v. Collins*, 452 F.Supp. 1007, *vacated*, 609 F.2d 151 (5th Cir. 1980) (S.D. Tex. 1977); *cf. Gannett Satellite Information Network, Inc. v. Metropolitan Transportation Authority*, 745 F.2d 767 (2d Cir. 1984) (train station is appropriate forum for newsrack newspaper sales); *Wright v. Chief of Transit Police*, 558 F.2d 67 (2d Cir. 1977)(government must prove existence of compelling state interest to justify total ban on sale of newspapers by hand in subway system); *Wolin v. Port of New York Authority*, 392 F.2d 83 (2d Cir. 1968), *cert. denied*, 393 U.S. 940 (1968) (bus terminal is a public forum); *Penthouse International v. Koch*, 599 F.Supp. 1338 (S.D.N.Y. 1984) (subway stations are public forums); *Moskowitz v. Cullman*, 432 F.Supp. 1263 (D.N.J. 1977) (a bus and train terminal is a public forum). In reaching its decision the Ninth Circuit relied upon cases from other circuits that had held airport terminals to be public forums. *Jews for Jesus, Inc. v. Board of Airport Commissioners*, 785 F.2d 791, 794-95 (9th Cir. 1986). These other circuits held that airport terminals were public forums by analogizing them to streets, sidewalks and parks.

In *United States Southwest Africa/Nambia Trade & Cultural Council v. United States*, 708 F.2d 760 (D.C. Cir. 1983) the court held that the public places of Washington National Airport and Dulles International Airport were public forums. It noted that, "[a]lthough not every form of speech is necessarily consistent with the airport's primary use, it seems clear that the public places in these airports are far more akin to such public forums as streets and common areas than they are to such nonforums as

prisons, buses, and military bases." 708 F.2d at 764. The court also pointed out that Congress had ordered the FAA to promulgate rules regulating access to public areas at Washington National Airport and Dulles International Airport for individuals and organizations desiring to solicit funds or distribute written material. 708 F.2d 765 (citing 49 U.S.C. § 1359 (Supp.V.1981)). The FAA has observed that

> [t]here is a considerable amount of social and commercial interchange in the terminals and, in many respects, the terminals are like any other public thoroughfare where there is no question that constitutional guarantees of freedom of speech, the exercise of religion and the right to peaceable assembly apply. These activities enjoy the protection of the First Amendment, and they may not be regulated by airport authorities in the same manner as commercial activity.

708 F.2d at 765 (citing 45 Fed. Reg. 35, 314 (1980)).

The court concluded that, "[w]hatever common sense differences may exist in the forms of free speech allowable in airports, as opposed to parks and streets, an unusual consensus of judicial, legislative, and administrative opinion would classify the public areas of National and Dulles squarely within the public forum family." 708 F.2d at 766.

In *Fernandes v. Limmer*, 663 F.2d 619, 629 (5th Cir. 1981), the Fifth Circuit concluded that in view of the lack of restrictions on entry by the general public, and the commercial, street-like character of the terminal concourses, the terminal buildings at the Dallas-Fort Worth airport complex must be treated as a public forum. The court observed that, "[i]t is now generally well established that airport terminals owned and administered by governmental entities are public forums in which efforts to regulate

speech or religious activity must comport with First Amendment guarantees." 663 F.2d at 626 (citing *International Society for Krishna Consciousness of Atlanta v. Eaves*, 601 F.2d 809 (5th Cir. 1979); *International Society for Krishna Consciousness v. Rochford*, 585 F.2d 263 (7th Cir. 1978); *Chicago Area Military Project v. City of Chicago*, 508 F.2d 921 (7th Cir. 1975); *Kuszynski v. City of Oakland*, 479 F.2d 1130 (9th Cir. 1973)). The court recognized the similarity between public streets and the terminal buildings "where air travelers as well as the general public may shop, dine, and sightsee." 663 F.2d at 627. Although recognizing that governmental ownership did not guarantee the public absolute and unrestricted access for the purpose of exercising First Amendment liberties, the court concluded that the interior terminal is at least partly a public forum. *Id.* at 626, 627.

The Seventh Circuit Court of Appeals, in *Chicago Area Military Project v. City of Chicago*, 508 F.2d 921 (7th Cir. 1975), held that the Chicago Area Military Project was entitled to exercise rights to free speech and press within the terminal buildings of the O'Hare Airport. The court pointed out that the plaintiffs were not seeking "to distribute leaflets on airplanes or in other privately owned or leased places but only in the spacious, city-owned common areas which resemble those public thoroughfares which have been long recognized to be particularly appropriate places for the exercise of constitutionally protected rights to communicate ideas and information." 508 F.2d at 925 (citing *Hague v. CIO*, 307 U.S. 496, 515, 516 (1939)). In that case, the fact that great numbers of people were freely admitted to public areas of the terminal buildings for shopping, dining, sightseeing, or to satisfy their curiosity was material. 508 F.2d at 925. The

court held that the plaintiffs were entitled to leafletting in the public areas of the terminal buildings while noting that not all publicly owned facilities were available for every expression of free speech. *Id.*

Even though the Ninth Circuit relied on these recent circuit court cases in reaching its decision, the Petitioners erroneously argue that its decision was based on inappropriate, inapplicable or out-dated case law. The Petitioners contend that the "airport cases" neither support the decision nor the conclusion that the terminal facilities are public forums. The cases relied upon by the Ninth Circuit, however, are clearly apposite and properly conclude that airport terminals are traditional public forums. Contrary to Petitioners' contentions, the applicable case law on both the appellate and trial court levels is harmonious and fully consonant with the Ninth Circuit's decision.

The Petitioners also argue that the Ninth Circuit chose to ignore the principles that publicly owned property is not a public forum and that public access does not make a facility a public forum. The Ninth Circuit, however, noted that "[i]f the speech is protected the court must identify the nature of the forum, because the extent to which the government may limit access depends on whether the forum is public or nonpublic." *Jews for Jesus, Inc.*, 785 F.2d 791, 793 (1986) (citing *Cornelius v. NAACP Legal Defense Educational Fund, Inc.*, 105 S.Ct. 3439, 3446-47 (1985)). The parties stipulated that the airport terminals were publicly owned and that the public was entitled to unlimited access to the interior terminals. If the court had ignored the foregoing principles, as Petitioner suggests, the public forum analysis would not have been necessary upon recognition of these stipulated facts.

However, the court did not ignore these principles but conducted a public forum analysis relying on other circuits and analogizing airport terminals to other traditional public forums.

The gravamen of Petitioners argument is based on the assertion that the airport facilities are dedicated and intended to be used exclusively for airport-related purposes. The Ninth Circuit properly rejected this noting that

> [t]he Board's reliance on recent Supreme Court decisions in *Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983), and *Cornelius*, 105 S.Ct. 3439 is misplaced. These cases do not concern the determination of traditional public forums. They address a separate and distinct issue whether governmental facilities that *are* not traditional public forums have been *opened* for First Amendment activities. *See Perry Education Association*, 460 U.S. at 46, 103 S.Ct. at 955 (interschool mail system is not a traditional public forum); *Cornelius*, 105 S.Ct. at 3450 (the Combined Federal Public Campaign literature is not a traditional public forum).

Jews for Jesus, Inc., 785 F.2d 791, 793 (9th Cir. 1986).

The Petitioners argue that the city charter mandates that the airport facilities be used only for their intended and dedicated airport-related purposes. Article XXIV, Section 238.8 of the charter also provides, however, that the Board shall "have power to enter into leases with any person, firm or corporation for purposes other than for the promotion and accommodation of air commerce and air navigation covering any portion of the airport property. . . ."

The Petitioners repeatedly assert that the terminal facilities are designed for and dedicated to airport-related purposes and that it is their intent to limit their uses to those purposes alone. However, this is not dispositive of the public forum issue nor relevant in determining whether a facility is a traditional public forum. Petitioners seem to suggest that traditional public forums are limited to streets, parks and sidewalks regardless of the similarities other forums may have to these long-recognized traditional public forums. A government, however, cannot create a public facility which has been traditionally held open to the exercise of free speech and then close that forum to free speech simply by intending that it have some other principal purpose. *See United States v. Grace*, 461 U.S. 171, 180 (1983). Streets are intended for ground-related traffic in the same manner that airport terminals are intended for airport-related purposes and, just as streets are traditional public forums, so are airport terminals.

The pedestrian walkways inside the airport terminals do not differ materially from the sidewalks that boarder streets. The fact that the pedestrian walkways are in proximity to airport runways and other areas that are inappropriate for the exercise of free speech does not make those walkways any less a public forum. *See United States v. Grace*, 461 U.S. 171 (1983). Likewise, the fact that the airport terminal is a covered facility while streets and sidewalks are open does not affect the appropriateness of the terminal for the exercise of free speech.

2. Petitioners have opened the Central Terminal Area of the Los Angeles International Airport to the public for expressive activity.

The Petitioners have opened the Central Terminal Area of the Los Angeles International Airport to expressive activities by permitting the exercise of certain First Amendment activity within it. A public facility not dedicated traditionally to expressive activity can become a public forum when free speech access is granted to the public by the governmental authority. *See Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37 (1983); *Heffron v. International Society for Krishna Consciousness*, 452 U.S. 640 (1981); *Widmar v. Vincent*, 454 U.S. 263 (1981).

In *Widmar*, this Court held that the University of Missouri had created a public forum by making its facilities generally available for the activities of registered student groups. 454 U.S. at 268. The university had argued that "[a]lthough the University had routinely approved Cornerstone meetings before 1977, . . . University officials had never 'authorized a student organization to utilize a University facility for a meeting where they had full knowledge that the purposes of the meeting include[d] religious worship or religious teaching.'" *Id.* at 266, n.3. The Petitioners have advanced the same argument in the instant case which this Court rejected in *Widmar*.

In *Cornelius v. NAACP Legal Defense & Educational Fund, Inc.*, 105 S.Ct. 3439 (1985), this Court observed that it "has looked to the policy and practice of the government to ascertain whether it intended to designate a place not traditionally open to assembly and debate as a pub-

lic forum." 105 S.Ct. at 3449 (citing *Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37, 47 (1983)). The stipulated facts show that during at least the past ten years a variety of religious and political groups, including the Respondents, have utilized the terminals to distribute literature and communicate ideas. Art work created by children has been displayed with Petitioners' express knowledge and permission. A display pertaining to protected species has been constructed and maintained inside terminal facilities, again with Petitioners' express permission. A picture of the mayor is displayed in each of the terminals. Petitioners do not prohibit persons wearing T-shirts or other clothing with slogans or other forms of religious or political communication from walking in the interior terminals. The Petitioners expressly consented to an information booth being maintained inside the terminal during the 1984 summer Olympic Games. The Petitioners permit the operation of a Christian Science reading room. Despite these numerous instances in which they have expressly consented to First Amendment activities, Petitioners argue that they have not made the facilities available for use by the public for expressive activity. This argument finds no support in the stipulated facts and should accordingly be rejected.

3. Petitioners have failed to show that an absolute prohibition of First Amendment activities is reasonable.

Even assuming that the Central Terminal Area of the Los Angeles International Airport is not a traditional public forum, any regulation imposed upon speech must be reasonable and not an effort to suppress particular speech. *See Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37 (1983). Whether a restric-

tion of access to a non-public forum is reasonable must be assessed in view of the purpose of the forum and all surrounding circumstances. *Cornelius v. NAACP Legal Defense & Educational Fund, Inc.* 105 S.Ct. 3439 (1985). Petitioners have not shown how the exercise of First Amendment activity will in any way interfere with the airport-related purpose. Although arguing that the terminal is intended and designated for airport-related purposes, Petitioners fail to demonstrate a single problem that might result from the exercise of First Amendment activities.

The form of expression in this case differs from that in *Members of City Council v. Taxpayers For Vincent*, 466 U.S. 789 (1984) and in *Heffron v. International Society for Krishna Consciousness, Inc.*, 452 U.S. 640 (1981). In *Members of City Council v. Taxpayers for Vincent*, this Court recognized that "the esthetic interest in preventing the kind of litter that may result from the distribution of leaflets on the public streets and sidewalks cannot support a prophylactic prohibition against the citizens' exercise of that method of expressing his views." 466 U.S. 789 at —. This interest, however, was held sufficient to support a prohibition on posting signs. *Id.* at —. The Court thus distinguished the expressive activity of distributing leaflets from the posting of signs and held that while the former may be constitutionally protected the latter was not. *Id.* at —.

In *Heffron*, Justice Blackmun noted that "commonsense differences between literature distribution, on the one hand, and solicitation and sales, on the other, suggest that the latter activities present greater crowd control problems than the former." 452 U.S. at 665 (Blackmun, J., concurring in part and dissenting in part). In the in-

stant case, Snyder was not soliciting money. Furthermore, it is the express policy of Jews for Jesus, Inc., that its members must neither solicit nor accept any money while distributing religious literature in the terminals at LAX. The Resolution in the instant case, however, makes no distinction between different forms of expressive activity but instead unreasonably prohibits all "First Amendment activities".

The undisputed facts reflect that Snyder, in distributing religious literature, was not blocking any entrance, exit, stairway, escalator, elevator, door or otherwise inhibiting the free flow of pedestrian traffic on the pedestrian walkway. He was not touching, annoying, blocking, obstructing, or otherwise harrassing any person present in the immediate vicinity. Furthermore, during at least the past ten years, a variety of religious and political groups, including the Respondents, have utilized the interior of the terminal to distribute literature and communicate ideas. These facts show that the exercise of First Amendment activity attempted here is clearly compatible with airport-related functions and neither impairs nor impedes them.

The Petitioners have expressly allowed the exercise of commercial speech in the interior terminals contending that such speech is of interest to the traveling public. Art work created by children and an exhibit pertaining to protected species have been displayed in the terminal with Petitioners' express permission. Any perceived distinction between these permitted activities and the religious speech engaged in by Snyder is illusory and is certainly not a reasonable basis for denying religious groups the

opportunity to distribute their materials in the interior terminals which are open to unrestricted public access.

In *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, — (1984), this Court held that "[t]o create an exception for [certain] speech and not . . . other types of speech might create a risk of engaging in constitutionally forbidden content discrimination." In the instant case, the Petitioners have created exceptions for certain speech while unreasonably forbidding Respondents' speech and have thereby regulated speech on the basis of its content. In allowing the expression of religious ideas by permitting the operation of a Christian Science reading room, Petitioners have placed themselves in the untenable position of simultaneously arguing that Respondents' message is not airport-related while the religious expressions of the Christian Science Church are. Aside from being obviously incongruous, Petitioners' actions are content discriminatory and thereby constitutionally impermissible. By licensing the Christian Science Church to promulgate its religious views while prohibiting Jews for Jesus, Inc., from evangelizing, Petitioners assume the role of censors determining what kinds of literature may be distributed and who may distribute it. This Court has historically recognized the dangers inherent in censorship, *see Schneider v. State*, 308 U.S. 147, 163-64 (1939); *Cantwell v. Connecticut*, 310 U.S. 296, 305 (1940), and has required the highest scrutiny of situations in which a governing authority undertakes to regulate speech on the basis of its content. *See Widmar v. Vincent*, 454 U.S. 263, 276 (1981). Even time, place and manner restrictions cannot be based upon the content or subject matter of speech. *Heffron*

v. International Society for Krishna Consciousness, Inc., 452 U.S. 640, 647 (1981).

The Board's Resolution moreover suffers from overbreadth since it presents a realistic danger of significantly compromising recognized First Amendment protections of individuals not before this Court. *See Members of City Council v. Taxpayer for Vincent*, 466 U.S. 789 (1984). Specifically, the Resolution applies not only to the distribution of leaflets but to all "First Amendment activity". This Court noted that the ordinance in *Heffron* permitted individuals to "mingle with the crowd and orally propagate their views." 452 U.S. at 655. The Resolution in this case would on its face prohibit that type of expressive activity since it outlaws all "First Amendment activity" whatsoever. Even if it were reasonable to prohibit Respondents from distributing leaflets, it is certainly unreasonable to limit all expressive activity.

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CONCLUSION

This Court should refuse to grant a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit since it is manifest that the decision sought to be reviewed is demonstrably in accord with the applicable decisions of this Court and of all federal appellate and trial courts which have addressed the issues presented.

Respectfully submitted,

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